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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Dan Lafontaine

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11/29/2006

Franz Bonsang  
c/o Protections Equinox Int'l  
224-4480 Cote de Liesse  
Montreal, H4N 2R1  
CANADA

EXAMINER

SHARMA, RASHMI K

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/806,189	LAFONTAINE ET AL.	
	Examiner	Art Unit	
	Rashmi K. Sharma	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) 26-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7 and 16 is/are rejected.
- 7) ☐ Claim(s) 8-15 and 17-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hingeable conveyor being *movable laterally* relative to the sloped gravity conveyor of claim 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "accumulating conveyor systems" in lines 3 and 4. Since only one "system" has been claimed thus far, there is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites "a sloped gravity conveyor". Does Applicant intend that this recitation be in addition to the accumulating conveyor system? It appears that based on Applicant's disclosure page 7 lines 16-19 "...parallel product accumulation conveyors or lanes 66, 68, which form part of the sloped gravity conveyor 62.", that this is not the case. Correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 6, 7, 16 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US Patent number 1,800,898) in view of De Greef (US Patent number 4,411,366).

Nelson discloses an order merging system comprising at least two depalletizing stations (2, 3), each depalletizing station, at least one pair of first case guides (outer guide rails of each of conveyors 5, 6 running towards the conveyor 8) in communication therewith and having at least one pair of twisted lanes (see Figure 1), the first case guides being downwardly sloped (see Figures 6 and 7) for guiding at least one product case of the respective product unit for the depalletizing station therealong in each of the first case guides, for each pair of first case guides, at least one pair of raisable guides (guide rails of conveyor 11) connected downstream thereof and in communication therewith, at least one pair of second case guides (14) in communication with the raisable guides (see Figures 6 and 7), the raisable guides being lowered to allow the product cases of the respective product unit for the depalletizing station from the first case guides to merge on the second case guides (14). Nelson also discloses for each depalletizing station, at least one accumulating conveyor system (along 5, 6) connected

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thereto, each accumulating system being dedicated to the respective product unit for the depalletizing station connected thereto, each accumulating conveyor system (5, 6) having at least one pair of the first case guides (outer guide rails of each of conveyors 5, 6, running towards the conveyor 8), each of the first case guides receiving at least one case of the respective product unit for the depalletizing station connected thereto, a mixing conveyor (8) for feeding cases away from the accumulating conveyor systems, wherein the mixing conveyor (8) being connected to the accumulating conveyor systems and located downstream therefrom, wherein the mixing conveyor (8) includes the second case guides (14) thereby first and second case guides being continuous, the accumulating conveyor system (5, 6) includes a conveyor end portion (see Figure 7 area where 11 meets 13) and a sloped gravity conveyor (11, read page 1, line 46 and page 4 lines 54-56), the first case guides running from the conveyor end portion to the mixing conveyor (8) via the sloped gravity conveyor (11), the conveyor end portion and the sloped gravity conveyor (11) each includes a pair of independent product accumulation lanes (see Figure 1, the area around the end of 11 and the beginning of 13 is in the area before each respective lane merges) and wherein each of the second case guides (14) includes a pair of independent mixing lanes (see Figure 1, 11 and area around the beginning of 13).

Nelson as disclosed above, fails to show each depalletizing station being dedicated to a different respective product unit depalletized thereon and 16 depalletizing stations.

De Greef does disclose each depalletizing station being dedicated to a different respective product unit depalletized thereon (read claim 1 lines 28-33).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow Nelson's depalletizing stations to convey different products or articles per lane as taught by De Greef in order to provide for a conveyor system capable of more efficiently conveying different products or articles from one point to another. While Nelson fails to show 16 depalletizing stations, it does disclose 3. It would be well within the purview of one having ordinary skill in the art to provide for a multitude of depalletizing stations, depending on the user's needs.

#### ***Allowable Subject Matter***

Claims 8-15 and 17-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Dependent claims 8, 17 and 21 recite the structural limitations of an order merging system comprising a conveyor end portion being hingeably connected to the sloped gravity conveyor, thereby moving laterally relative to the sloped gravity conveyor, in which a case switch is connected to the mixing lanes and wherein the depalletizing station includes a main support frame having a mezzanine level with a lift access opening therein, the lift access opening being sized and shaped to receive therethrough

a pallet having thereon the product case, in combination with the rest of the recited structure, clearly defines over the prior art.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-3, 6, 7 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

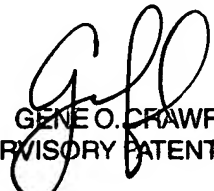


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rks

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER